

REMARKS

Claims 1-18 are pending in the present application. Claims 19 and 20 are newly presented herein. In the Office Action mailed September 18, 2007, the Examiner noted the identification of an unrelated provisional application and directed Applicant's attention to the appropriate provisional application. The Examiner next objected to the drawings as failing to show a lever stop element. Claims 1, 2, 8, 10, and 13-17 were objected to for various formalities. The Examiner also objected to the abstract under MPEP §608.01(b) "because of the phrase 'lever type handles'". The Examiner next rejected claims 1-16 under 35 U.S.C. §112, first paragraph and claims 1-18 under 35 U.S.C. §112, second paragraph. Only claim 17 stands rejected in view of the prior art. Claim 17 stands rejected under 35 U.S.C. §102(b) as being anticipated by DeForrest (U.S. Patent 4,798,069). The Examiner indicated that claims 1-12, 15, 16, and 18 would be allowable over the prior art and upon resolution of the §112 rejections. Applicant appreciates the Examiner's indication of allowability of subject matter of the above-captioned application. Applicant further offers the following remarks in resolving the remaining issues with respect to the outstanding rejections.

Applicant appreciates the Examiner's identification of the appropriate provisional application number and has amended the first paragraph of the application to correct the inadvertent typographical error in referring to the provisional applications. Applicant has also enclosed herewith a newly executed declaration properly identifying the multiple priority documents.

The Examiner objected to the drawings stating that "The drawings must show every feature of the invention specified in the claims. Therefore, the lever stop element (if [it, sic] is not element 40) must be shown or the feature(s) canceled from the claim(s)." Applicant has amended claim 1, and the claims that depend therefrom to be more consistent with the specification. As amended, claim 1, and the claims that depend therefrom, call for, in part, a lever grip element. This terminology is consistent with the terminology of the PCT publication. Furthermore, the recitation of a lever grip element, or collar 28 or cage 40, is more fully discussed and disclosed in at least paragraphs [0026] and [0039] of the published application. Accordingly, upon consideration of the amendments presented herein, Applicant believes the objection to the drawings has been overcome.

With respect to the Examiner's objection to the abstract for recitation of the phrase 'lever type handles', although Applicant finds no support in MPEP §608.01(b) for the objection, Applicant has amended the abstract to provide a more concise caption of the invention. As the

amendment removes the text that the Examiner has objected to, Applicant also considers this objection to be overcome.

The Examiner next offered several suggested amendments to claims 1, 2, 8, 10, 13, 14, 15, 16, and 17 to overcome various objections thereto. Although Applicant appreciates the Examiner's suggestions, Applicant finds no support in the MPEP for the imposition of the suggested amendments with respect to the recitation of "at least one connecting element" as called for in claim 1. Even more egregious, the Examiner objects to claims 13 and 14 and suggests that the objection can be overcome by "Delete[ing] claims 13 and 14." The amendments proffered by the Examiner seem to stem from the Examiner's rejections based under 35 U.S.C. §112, first and second paragraphs. For the reasons offered below, Applicant believes the claims as amended herein overcome the Examiner's objections and comply with the applicable rules. Accordingly, Applicant believes no further amendment of these claims is necessary. For the reasons set forth below, Applicant believes that which is called for in the present claims is both enabled by the application as files and clear and concise with respect to the metes and bounds of the claims.

The Examiner rejected claims 1-16 under 35 U.S.C. §112, first paragraph asserting that "the claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention." The Examiner continues, "Claim 1 recites that the child safety lock comprises at least one connecting element. However, it is unclear of how the safety lock would work with only one connecting element." The Examiner further asserts, "As seen in the specification in the drawings, the device uses 2 connecting elements (64, 68) so that movement of the lever in either direction would be prevented." The Examiner further opines that, "If the device has only one, then it is unclear how what would prevent the movement of the lever in both directions" and that "Further, the current specification and drawings has [sic] no support for a device where [sic] requires only one connecting element." It seems that the Examiner has blurred the distinction between that which is enabled and that which is disclosed as a preferred embodiment. It is by this improper interpretation that the Examiner asserts the limitations of claims 13 and 14 have not been considered since the limitations were considered in claim 1. As explained further below, it also seems as though the Examiner has read limitations into the claims in the effort to support the conclusion that the claims are not enabled.

Title 35 U.S.C. §112, first paragraph, states that "[t]he specification shall contain a written description of the invention, and of the manner and process of making and using it, in

such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention.” 35 U.S.C. §112, ¶1.

As articulated in MPEP §2163.II, “[t]he examiner has the initial burden, after a thorough reading and evaluation of the content of the application, of presenting evidence or reasons why a person skilled in the art would not recognize that the written description of the invention provides support for the claims.” MPEP §2163.II (emphasis added). As stated in MPEP §2111.01(II), discussing the impropriety of importing claim limitations from the specification, “Though understanding the claim language may be aided by explanations contained in the written description, it is important not to import into a claim limitations that are not part of the claim. For example, a particular embodiment appearing in the written description may not be read into a claim when the claim language is broader than the embodiment.” *Superguide Corp. v. DirectTV Enterprises Inc.*, 358 F.3d 870, 875, 69 USPQ2d 1865, 1868 (Fed. Cir. 2004), (emphasis added). Contrary to the Examiners conclusion, the Specification fully supports that which is called for in the pending claims even though the detailed description discloses more than what is necessary to define the present invention over the art of record.

As stated in MPEP §2164.08, “The Federal Circuit has repeatedly held that ‘the specification must teach those skilled in the art how to make and use the full scope of the claimed invention without ‘undue experimentation’ [citing *In re Wright*, 999 F.2d 1557, 1561, 27 USPQ2d 1510, 1513 (Fed. Cir. 1993)]’ and that “... not everything necessary to practice the invention need be disclosed.” MPEP §2164.08. The Section further states that “[i]n fact, what is well-known is best omitted[.] [citing *In re Buchner*, 929 F.2d 660, 661, 18 USPQ2d 1331, 1332 (Fed. Cir. 1991)]” and that “[a]ll that is necessary is that one skilled in the art be able to practice the claimed invention, given the level of knowledge and skill in the art ...[:] the scope of enablement must only bear a “reasonable correlation” to the scope of the claims. See, e.g., *In re Fisher*, 427 F.2d 833, 839, 166 USPQ 18, 24 (CCPA 1970).” MPEP §2164.08 (emphasis added).

As is commonly understood in the art, lever-type door latch systems are commonly provided in one of two operating paradigms, unidirectional and bi-directional operation. That is, some lever door systems are operable in only one rotational direction, either clockwise or counterclockwise, and other lever door latch systems are operable in both clockwise and counterclockwise directions. In other words, so door levers will only unlatch the door if moved in one of an up or down direction whereas other door levers with unlatch a door if the lever is moved in either direction. Even so, claim 1, does not require prevention of movement of the

lever in either direction as mandated by the Examiner. Claim 1 merely requires that the device interfere with rotation of the lever. This configuration is expressly disclosed in the application.

As stated in the paragraph [0019] of the application publication, “It is thus another object of the invention to accommodate multiple handle designs with different-sized shaft or shafts that are not cylindrical.” Specification, ¶[0019]. The Specification further discloses that “The safety lock may include a second arm extending radially from the fulcrum to a second end sized to interfit with a stationary door structure” and that “It is thus another object of the invention to provide a lock that may block two directions of rotation of the lever handle.” Specification, ¶¶[0028],[0029]. The Specification further expressly discloses that “It will be understood that arms 64 and 68 together prevent the opening of the door 14 by moving the lever 20 up or down” and that “The arm 64 alone may, however, prevent the opening of the closed door 14 where the expectation is that the child will only be able to pull downward on the lever 20.” Id., ¶[0055]. Such disclosure clearly enables that which the Examiner has rejected as non-enabled. Claims 13 and 14 further clearly define the preferred embodiment wherein a pair of arms can prevent rotation of the door lever in either direction. Even so, the citations offered above unequivocally rebut the Examiners assertion that “the current specification and drawing has no support for a device where requires only one connecting element.” Accordingly, Applicant respectfully requests that the §112, first paragraph rejection be withdrawn.

The Examiner next rejected claims 1-18 under 35 U.S.C. §112, second paragraph, as being vague or indefinite asserting that “the claims are directed to a child safety lock. However, the limitations of the door mechanism are positively recited.” The Examiner concludes, “Then, it is unclear if the applicant is trying to claim the child safety lock with the door mechanism or just [sic] the safety lock.” Applicant has amended the claims to improve the readability thereof. Contrary to the Examiner’s interpretation, the present invention is specific to no part of a door or door latch assembly other than to say that the invention is configured to cooperate with lever-type door latches. That is, the Examiner is correct that the present invention is related to a safety latch. The claims define the assembly of the safety latch by the ability of the respective parts of the assembly to interact with the door and door latch assemblies. That is, the recitation of the door assemblies in the claims merely defines the structure which immediately precedes the recited intended use. For example, claim 1 has been amended to call for a lever grip element configured to engage a portion of the lever to limit free motion of the lever as would be necessary to open the door lock mechanism. That is, it is clear that the lever grip element is defined as being

configured to engage a portion of a door lever as compared to those prior art devices which are configured to interfere with the operation of a door knob.

Applicant has extensively amended the previously pending claims such that the terminology of the claims is generally more consistent with the terminology of the Specification. Applicant believes all of the §112 rejections have been addressed with these amendments. To assist in furthering the prosecution of this matter, the Examiner is cordially invited to contact the undersigned should any matters have been inadvertently overlooked with respect to the multiple §112 first and second paragraph rejections. In accordance with these amendments, and the Examiner's confusion with respect to the translation of the lever rotational forces to the surrounding door structure, the Examiner's attention is directed to paragraphs [0054]-[0056] of the published application for support for the understanding that, when the safety lock is engaged, rotational forces subjected to the lever to open a door are communicated to surrounding door structure by the safety lock thereby preventing operation of the door latch mechanism.

The Examiner next rejected claim 17 under 35 U.S.C. §102(b) as being anticipated by DeForrest, Sr. Although Applicant appreciates the Examiners colorful interpretation of that which is called for in claim 17, Applicant respectfully disagrees that DeForrest, Sr. discloses, or even suggests, a safety lock as described by the present invention. The device of DeForrest, Sr. is a level door handle lock protecting device. That is, the device protects the lock of the door mechanism. The lock of the door mechanism is the only assembly in DeForrest, Sr. that prevents rotation of the lever relative to the door. As the entirety of the protecting device of DeForrest, Sr. is supported by the lever of the door handle, no portion of the device of DeForrest, Sr. is capable of conducting a rotation force to stationary door structure as called for in claim 17. Simply, the safety lock of the present invention and the lock protecting device of DeForrest, Sr. are so far afield from one another, in construction, operation, and function, that DeForrest, Sr. lacks more than this particular element. Even so, as DeForrest, Sr. fails to disclose each and every called for in claim 17, Applicant believes claim 17 is patentably distinct thereover.

Applicant has also presented herewith new claims 19 and 20. Although Applicant does not necessarily disagree that other prior art references disclose child door safety lock systems, claim 19 defines a lock assembly that is selectively engageable with a door assembly for interfering with the operation of a lever handled door latch and that includes an arm movable between a first position wherein the device interferes with operation of the lever, and a second position wherein the device rotates with operation of the lever. The art of record does not disclose, teach, or suggest a device that interferes with the operation of lever handled doors in

such a manner. Accordingly, Applicant believes that which is called for in claims 19 and 20 is also patentably distinct over the art of record.

Therefore, in light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 1-20.

Although no fees are believed due with this response for entry and consideration of the claims presented herein, Applicant hereby authorizes charging, and/or crediting any overpayment, of fees which may be due or payable to deposit account no. 50-1170.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

George Konstantakis, Inventor



Kirk L. Deheck
Registration No. 55,782

Dated: December 12, 2007
Attorney Docket No.: 1795.001 (Old: 550637.90018)

P.O. ADDRESS:

Boyle Fredrickson, S.C.
840 North Plankinton Avenue
Milwaukee, WI 53203
Direct: 414-225-6302